



Costs Decision

Site visit made on 8 June 2021

by Mrs Chris Pipe BA(Hons), DipTP, MTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 August 2021.

Costs application in relation to Appeal Ref: APP/W5780/W/20/3263096 164 Kingston Road, Ilford IG1 1PE

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Marbeq Limited for a full award of costs against the Council of the London Borough of Redbridge.
 - The appeal was against the refusal of planning permission for change of use from current max 6 person HMO (C4 use Class) to accommodate a max of 7 people (larger HMO - Sui Generis use Class).
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Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. A full award of costs is sought by the applicant on both procedural and substantive basis. However, from the details provided the concerns raised relate to substantive reasons rather than procedural.
4. Planning Practice Guidance indicates that local planning authorities will be at risk of an award being made against them if they fail to produce evidence to substantiate each reason for refusal.
5. It will be seen from my decision that there were not sufficient grounds for refusing planning permission relating to the loss of family housing, the effect on the living conditions of future occupants, the provision of cycle storage and highway safety.
6. There is a disagreement between parties as to the loss of a family dwelling, reason for refusal No. 1. I agree with the Council that a family dwelling could be lost through the use of permitted development rights to change the existing C4 HMO to a C3 dwellinghouse notwithstanding the existing lawful use as a C4 HMO. Nonetheless the Council have failed to take into account the material planning consideration that whilst the proposal increases occupation by one person this does not intensify the use in this instance due to the circumstances of the case.

7. The Council consider that one additional occupant would unlikely result in more frequent comings and goings, different patterns of behaviour and would not result in a significant material intensification. They also confirm that the associated increase in refuse, level of noise, disturbance and general activity combined with pressure for on-street parking would not significantly harm the amenities of neighbouring residents. On this basis it is therefore difficult to substantiate the reasons for refusal No's. 1 and 4 relating to adverse effect on the character of the area in general and highway safety leading to additional noise and disturbance.
8. In relation to the provision of cycle storage outlined in reason for refusal No. 2 the Council have not provided substantive reasoning why this matter could not be controlled by the imposition of a planning condition. It was clear during my site visit that cycle storage could be accommodated within the rear outdoor private space.
9. The Council did not contest the appeal reason for refusal 3 relating to the absence of appropriate mitigation for the Epping Forest Special Area of Conservation (Epping Forest SAC). Nonetheless I am mindful that the Local Plan Policy referenced in the reason for refusal, LP38, relates to the protection of trees and landscape enhancements. No substantive evidence has been provided by the Council to confirm that there is a requirement for proposals to provide appropriate mitigation for the Epping Forest SAC or to confirm the advice relating to this requirement for this specific proposal.
10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated, in this case having to prepare a case in relation to the reasons for refusal and that a full award of costs is justified.

Costs Order

11. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that the Council of the London Borough of Redbridge shall pay to Marbeq Limited, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in responding to reasons for refusal; such costs to be assessed in the Senior Courts Costs Office if not agreed.
12. The applicant is now invited to submit to the Council of the London Borough of Redbridge, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

C Pipe

INSPECTOR